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IN THE THIRD JUDICIAL DISTRICT COURT, SALT LAKE DEPARTMENT
SALT LAKE COUNTY, STATE OF UTAH

STATE OF UTAH,	:	
	:	STATEMENT OF DEFENDANT
Plaintiff,	:	IN SUPPORT OF GUILTY PLEA
	:	AND CERTIFICATE OF COUNSEL
vs.	:	
	:	Criminal No. 071902555
GRANT KEITH AAGARD,	:	
	:	Judge _____
Defendant.	:	

I, Grant Keith Aagard, hereby acknowledge and certify that I have been advised of and that
I understand the following facts and rights:

Notification of Charges

I am pleading guilty to the following crimes:

Crime & Statutory Provision	Degree	Punishment Min/Max and/or Minimum Mandatory
COUNT I - Abuse, Neglect or Exploitation of a Vulnerable Adult, §76-5-511(4)(a)(iii), UCA (1996)	Third Degree Felony	Incarceration for a term not to exceed five years \$5,000.00 Fine

COUNT II - THEFT BY DECEPTION, §76-6-405, UCA (1973)	Third Degree Felony	Incarceration for a term not to exceed five years \$5,000.00 Fine
COUNT III - THEFT BY DECEPTION, §76-6-405, UCA (1973)	Third Degree Felony	Incarceration for a term not to exceed five years \$5,000.00 Fine
COUNT IV - THEFT BY DECEPTION, §76-6-405, UCA (1973)	Third Degree Felony	Incarceration for a term not to exceed five years \$5,000.00 Fine

I have received a copy of the Second Amended Information against me. I have read it, or had it read to me, and I understand the nature and the elements of the crimes to which I am pleading guilty.

The elements of the crimes to which I am pleading guilty are:

COUNT I - ABUSE, NEGLECT OR EXPLOITATION OF A VULNERABLE ADULT, §76-5-511(4)(a)(iii), UCA (1996):

On the dates alleged in the Second Amended Information, I intentionally or knowingly, unjustly or improperly used or managed the resources of a vulnerable adult for the profit or advantage of someone other than the vulnerable adult; and

COUNTS II, III, IV - THEFT BY DECEPTION, §76-6-405, UCA (1973):

On the dates alleged in the Second Amended Information, I did knowingly or intentionally commit theft by obtaining or exercising control over property of another by deception with a purpose to deprive him thereof.

I understand that by pleading guilty I will be admitting that I committed the crimes listed above. I stipulate and agree that the following facts describe my conduct and the conduct of other persons for which I am criminally liable. These facts provide a basis for the court to accept my guilty plea and prove the elements of the crime to which I am pleading guilty:

Between April of 1997 through April 28, 2001, I presented nine separate letters bearing the forged signature of my elderly mother, Leola Fagan, to United Heritage Insurance Company, and obtained, without Leola Fagan's knowledge or consent, access to over \$85,000 from an annuity belonging to Leola Fagan. The last two forged and fraudulent letters were dated August 31, 2000 requesting \$8,000, and the final letter dated April 28, 2001, requesting the remaining balance of \$4,850.01. I used this money for my personal benefit. My mother, Leola Fagan did not become aware of the theft until 2006 when she was notified by her banking institution that she was overdrawn on her personal bank accounts which prompted her to inquire into her financial status. Between January 2002 through February 2006, I assumed responsibility of Leola Fagan's finances. Leola Fagan is elderly and legally blind and allowed me, her son, to pay her bills and assist with her financial needs. During this time period, I wrote checks from my mother's checking account and used the money for my personal benefit without my mother's knowledge or authorization. In 2004, Leola Fagan suffered an injury and was in a care facility while she recovered. As a result of her medical needs, Leola Fagan owed medical bills of approximately \$43,000. I persuaded my mother to obtain a "reverse mortgage" on her personal residence to pay

the medical bills. My mother wanted to pay the bills with funds from her annuity, but was unaware that the money from the annuity was gone due to my actions. My mother agreed with my advice and obtained a “reverse mortgage” on her property. As a result, Leola Fagan was to receive approximately \$153,000. I took these proceeds, and after paying the medical bills, placed the balance in Leola Fagan’s checking account and spent the balance of the proceeds for my own personal benefit. I also submitted tax returns for my mother in 2003, 2004 and 2005. Thereafter, I received monies owing from those returns and used the money for my personal benefit. The value of those three tax returns was approximately \$1,700.

Waiver of Constitutional Rights

I am entering this plea voluntarily. I understand that I have the following rights under the constitutions of Utah and the United States. I also understand that if I plead guilty I will give up all the following rights:

Counsel: I know that I have the right to be represented by an attorney and that if I cannot afford one, an attorney will be appointed by the court at no cost to me. I understand that I might later, if the judge determined that I was able, be required to pay for the appointed lawyer’s service to me.

I have not waived my right to counsel, I certify that I have read this statement and that I understand the nature and elements of the charges and crimes to which I am pleading guilty. I also understand my rights in this case and other cases and the consequences of my guilty plea.

If I have not waived my right to counsel, my attorney is Tara Haynes. My attorney and I have fully discussed this statement, my rights, and the consequences of my guilty plea.

Jury Trial. I know that I have a right to a speedy and public trial by an impartial (unbiased) jury and that I will be giving up that right by pleading guilty.

Confrontation and cross-examination of witnesses. I know that if I were to have a jury trial, a) I would have the right to see and observe the witnesses who testified against me and b) my attorney, or myself if I waived my right to an attorney, would have the opportunity to cross-examine all of the witnesses who testified against me.

Right to compel witnesses. I know that if I were to have a jury trial, I could call witnesses if I chose to and I would be able to obtain subpoenas requiring the attendance and testimony of those witnesses. If I could not afford to pay for the witnesses to appear, the State would pay those costs.

Right to testify and privilege against self-incrimination. I know that if I were to have a jury trial, I would have the right to testify on my own behalf. I also know that if I chose not to testify, no one could make me testify or make me give evidence against myself I also know that if I chose not to testify, the jury would be told that they could not hold my refusal to testify against me.

Presumption of innocence and burden of proof. I know that if I do not plead guilty, I am presumed innocent until the State proves that I am guilty of the charged crime. If I choose to fight the charges against me, I need only plead “not guilty,” and my case will be set for a trial. At

a trial, the State would have the burden of proving each element of the charge beyond a reasonable doubt. If the trial is before a jury, the verdict must be unanimous, meaning that each juror would have to find me guilty.

I understand that if I plead guilty, I give up the presumption of innocence and will be admitting that I committed the crime stated above.

Appeal. I know that under the Utah Constitution, if I were convicted by a jury or judge, I would have the right to appeal my conviction and sentence. If I could not afford the costs of an appeal, the State would pay those costs for me. I understand that I am giving up my right to appeal my conviction if I plead guilty.

I know and understand that by pleading guilty, I am waiving and giving up all the statutory and constitutional rights as explained above.

Consequences of Entering a Guilty Plea

Potential penalties. I know the maximum sentence that may be imposed for each crime to which I am pleading guilty. I know that by pleading guilty to a crime that carries a mandatory penalty, I will be subjecting myself to serving a mandatory penalty for that crime. I know my sentence may include a prison term, fine, or both.

I know that in addition to a fine, an eighty-five percent (85%) surcharge will be imposed. I also know that I may be ordered to make restitution to any victims of my crime, including any restitution that may be owed on charges that are dismissed as part of a plea agreement.

Consecutive/concurrent prison terms. I know that if there is more than one crime involved, the sentences may be imposed one after another (consecutively), or they may run at the same time (concurrently). I know that I may be charged an additional fine for each crime that I plead to. I also know that if I am on probation or parole, or awaiting sentencing on another offense of which I have been convicted or which I have plead guilty, my guilty plea(s) now may result in consecutive sentences being imposed on me. If the offense to which I am now pleading guilty occurred when I was imprisoned or on parole, I know the law requires the court to impose consecutive sentences unless the court finds and states on the record that consecutive sentences would be inappropriate.

Plea bargain. My guilty plea is the result of a plea bargain between myself and the prosecuting attorney. All the promises, duties, and provisions of the plea bargain, if any, are fully contained in this statement, including those explained below:

1. I will plead guilty to Count I, Abuse, Neglect or Exploitation of a Vulnerable Adult, a Third Degree Felony, in violation of U.C.A. §76-5-111(4)(a)(iii).
2. I will plead guilty to Count II, Theft by Deception, a Third Degree Felony, in violation of U.C.A. §76-6-405.
3. I will plead guilty to Count III, Theft by Deception, a Third Degree Felony, in violation of U.C.A. §76-6-405.

4. I will plead guilty to Count IV, Theft by Deception, a Third Degree Felony, in violation of U.C.A. §76-6-405.

5. I will pay full restitution to the victim in the amount of \$237,606.14. I agree to pay \$_____ at the date of sentencing and monthly installments as established by the Court in the amount of \$_____.

6. Said restitution shall be made by money order or certified check **payable to Leola Fagan** and the payments are to be sent to the Utah Medicaid Fraud Control Unit, Attention: Linda Snow, 5272 College Drive, #200, Murray, Utah 84123, for distribution to the victim. The first installment is to be paid within 30 days of the date of this agreement.

Trial judge not bound. I know that any charge or sentencing concession or recommendation of probation or suspended sentence, including a reduction of the charges for sentencing, made or sought by either defense counsel or the prosecuting attorney are not binding on the judge. I also know that any opinions they express to me as to what they believe the judge may do are not binding on the judge.

Defendant's Certification of Voluntariness

I am entering this plea of my own free will and choice. No force, threats, of unlawful influence of any kind have been made to get me to plead guilty. No promises except those contained in this statement have been made to me.

I have read this statement, or I have had it read to me by an attorney, and I understand its contents and adopt each statement in it as my own. I know that I am free to change or delete anything contained in this statement, but I do not wish to make any changes because all of the statements are correct.

I am satisfied with the advice and assistance of my attorney.

I am _____ years of age. I have attended school through the _____ grade. I can read and understand the English language. If I do not understand English, an interpreter has been provided to me. I was not under the influence of any drugs, medication, or intoxicants which would impair my judgment when I decided to plead guilty. I am not presently under the influence of any drug, medication, or intoxicants which impair my judgment.

I believe myself to be of sound and discerning mind and to be mentally capable of understanding these proceedings and the consequences of my plea. I am free of any mental disease, defect, or impairment that would prevent me from understanding what I am doing or from knowingly, intelligently, and voluntarily entering my plea.

I understand that if I want to withdraw my guilty plea, I must file a written motion to withdraw my plea of guilty before sentence is announced. I will only be allowed to withdraw my plea if I show that it was not knowingly and voluntarily made.

Dated this _____ day of _____, 2007.

GRANT KEITH AAGARD
DEFENDANT

Certificate of Defense Attorney

I certify that I am the attorney for GRANT KEITH AAGARD, the defendant above, and that I know he has read the statement or that I have read it to him; I have discussed it with him and believe that he fully understands the meaning of its contents and is mentally and physically competent. To the best of my knowledge and belief, after an appropriate investigation, the elements of the crime and the factual synopsis of the defendant's criminal conduct are correctly stated; and these, along with the other representations and declarations made by the defendant in the foregoing affidavit, are accurate and true.

TARA HAYNES
ATTORNEY FOR DEFENDANT
Bar No. _____

Certificate of Prosecuting Attorney

I certify that I am the attorney for the State of Utah in the case against GRANT KEITH AAGARD, defendant. I have reviewed this Statement of Defendant and find that the factual basis of the defendant's criminal conduct which constitutes the offense is true and correct. No improper inducements, threats, or coercion to encourage a plea has been offered defendant. The plea negotiations are fully contained in the Statement or as supplemented on the record before the Court. There is reasonable cause to believe that the evidence would support the conviction of defendant for the offense for which the plea is entered and that the acceptance of the plea would serve the public interest.

ROBERT E. STEED
PROSECUTION ATTORNEY
Bar No. 6036

Order

Based on the facts set forth in the foregoing Statement and the certification of the defendant and counsel, and based on any oral representations in court, the Court witnesses the signatures and finds that the defendant's guilty plea is freely, knowingly, and voluntarily made.

IT IS HEREBY ORDERED that the defendant's guilty plea to the crime set forth in the Statement be accepted and entered.

Dated this _____ day of _____, 2007.

DISTRICT COURT JUDGE

11/2001
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